

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MICHAEL A. SPENCE,

Plaintiff,

-against-

MEMORANDUM AND ORDER
12-CV-3131(JS)(WDW)

ARMOR CORRECTIONAL HEALTH,

Defendant.

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APPEARANCES:

For Plaintiff: Michael A. Spence, Pro Se
12002347
Nassau County Correctional Center
100 Carman Ave.
East Meadow, NY 11554

For Defendant: No appearance

SEYBERT, District Judge:

Presently pending before the Court is the pro se Complaint brought by incarcerated pro se plaintiff Michael A. Spence ("Plaintiff") pursuant to 42 U.S.C. § 1983 ("Section 1983"), accompanied by an application to proceed in forma pauperis. Upon review of the declaration in support of the application to proceed in forma pauperis, the Court determines that the Plaintiff's financial status qualifies him to commence this action without prepayment of the \$350.00 filing fee. See 28 U.S.C. §§ 1914(a); 1915(a)(1). Therefore, Plaintiff's request to proceed in forma pauperis is GRANTED.

Having reviewed the pro se Complaint, the undersigned declines to conclude at this stage that the within action is frivolous or malicious within the meaning of 28 U.S.C. § 1915.

While it may be that Plaintiff is unable to prevail on his claim, the Court's uncertainty does not justify dismissal at this early juncture. McEachin v. McGuinnis, 357 F.3d 197, 200 (2d Cir. 2004). Accordingly, the application to proceed in forma pauperis is GRANTED and the Court orders service of the Complaint without prepayment of the filing fee.

The Clerk of the Court is directed to forward to the United States Marshal for the Eastern District of New York copies of Plaintiff's Summons, Complaint, and this Order for service upon the Defendant without prepayment of fees. Furthermore, the Clerk is directed to mail a copy of this Order to the Plaintiff.

SO ORDERED.

/s/ JOANNA SEYBERT
JOANNA SEYBERT, U.S.D.J.

Dated: July 6, 2012
Central Islip, New York